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**From:** Beck, Nancy [Beck.Nancy@epa.gov]  
**Sent:** 11/17/2017 5:43:42 PM  
**To:** Baptist, Erik [baptist.erik@epa.gov]; Keigwin, Richard [Keigwin.Richard@epa.gov]; Mclean, Kevin [Mclean.Kevin@epa.gov]; Dyner, Mark [dyner.mark@epa.gov]  
**CC:** Perlis, Robert [Perlis.Robert@epa.gov]; Hughes, Hayley [hayley.hughes@hq.dhs.gov]; Dourson, Michael [dourson.michael@epa.gov]; Bertrand, Charlotte [Bertrand.Charlotte@epa.gov]  
**Subject:** RE: URGENT: RE: NCAP v. NMFS, 07-1791 (W.D. Wash.): Praeipce attaching FWS letter  
**Attachments:** DRAFT Response11.16bClean.docx

Edits seem fine to me, I presume OPP can provide clarifying responses.

Rick—will your team revise, format and finalize today?

Thanks.

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Nancy B. Beck, Ph.D., DABT  
Deputy Assistant Administrator, OCSPP  
P: 202-564-1273

Ex. 6 Personal Privacy (PP)  
[beck.nancy@epa.gov](mailto:beck.nancy@epa.gov)

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**From:** Baptist, Erik  
**Sent:** Friday, November 17, 2017 9:27 AM  
**To:** Keigwin, Richard <Keigwin.Richard@epa.gov>; Mclean, Kevin <Mclean.Kevin@epa.gov>; Dyner, Mark <dyner.mark@epa.gov>; Beck, Nancy <Beck.Nancy@epa.gov>  
**Cc:** Perlis, Robert <Perlis.Robert@epa.gov>  
**Subject:** RE: URGENT: RE: NCAP v. NMFS, 07-1791 (W.D. Wash.): Praeipce attaching FWS letter

I have some comments in the attached document. Thanks for putting it together so quickly. Nancy, you should send Chris a draft before we go final and transmit.

**Erik Baptist**  
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**From:** Keigwin, Richard  
**Sent:** Thursday, November 16, 2017 5:36 PM  
**To:** Baptist, Erik <[baptist.erik@epa.gov](mailto:baptist.erik@epa.gov)>; Mclean, Kevin <[Mclean.Kevin@epa.gov](mailto:Mclean.Kevin@epa.gov)>; Dyner, Mark <[dyner.mark@epa.gov](mailto:dyner.mark@epa.gov)>; Beck, Nancy <[Beck.Nancy@epa.gov](mailto:Beck.Nancy@epa.gov)>  
**Cc:** Perlis, Robert <[Perlis.Robert@epa.gov](mailto:Perlis.Robert@epa.gov)>  
**Subject:** RE: URGENT: RE: NCAP v. NMFS, 07-1791 (W.D. Wash.): Praeipce attaching FWS letter

Attached is a revised draft of the response to the letter from FWS. This version incorporates feedback from Nancy and Mark. Are there any other changes?

Marietta is in San Francisco with Mark. I have to pick up a kid from college tomorrow morning, but should be back in the DC area by 3pm. If Marietta can't sign it from SF, I could sign it when I'm back in DC tomorrow afternoon.

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**From:** Baptist, Erik

**Sent:** Thursday, November 16, 2017 5:32 PM

**To:** Mclean, Kevin <[Mclean.Kevin@epa.gov](mailto:Mclean.Kevin@epa.gov)>; Dyner, Mark <[dyner.mark@epa.gov](mailto:dyner.mark@epa.gov)>; Beck, Nancy <[Beck.Nancy@epa.gov](mailto:Beck.Nancy@epa.gov)>; Keigwin, Richard <[Keigwin.Richard@epa.gov](mailto:Keigwin.Richard@epa.gov)>

**Cc:** Perlis, Robert <[Perlis.Robert@epa.gov](mailto:Perlis.Robert@epa.gov)>

**Subject:** RE: URGENT: RE: NCAP v. NMFS, 07-1791 (W.D. Wash.): Praeipce attaching FWS letter

Kevin and Mark,

I want to object to DOJ filing the letter. If we had known that NMFS would use this letter in support of its motion, we would not have submitted our declaration. We should note to DOJ that EPA plans to send a response letter to FWS that may undermine what DOJ is representing to the court.

Rick and Nancy, would it be possible to send out our response letter tomorrow?

**Erik Baptist**

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**From:** Mclean, Kevin

**Sent:** Thursday, November 16, 2017 5:07 PM

**To:** Dyner, Mark <[dyner.mark@epa.gov](mailto:dyner.mark@epa.gov)>; Baptist, Erik <[baptist.erik@epa.gov](mailto:baptist.erik@epa.gov)>; Beck, Nancy <[Beck.Nancy@epa.gov](mailto:Beck.Nancy@epa.gov)>; Keigwin, Richard <[Keigwin.Richard@epa.gov](mailto:Keigwin.Richard@epa.gov)>

**Cc:** Perlis, Robert <[Perlis.Robert@epa.gov](mailto:Perlis.Robert@epa.gov)>

**Subject:** URGENT: RE: NCAP v. NMFS, 07-1791 (W.D. Wash.): Praeipce attaching FWS letter

Erik and Nancy—

If you want to object to this—a supplement by NMFS to its earlier filing that would contain the FWS letter—I think you need to raise this immediately with DOJ (and others?). We were not aware of this until just now when Mark got this after he landed in SF. DOJ wants to file for FWS today. I am by no means confident that DOJ and FWS would change course if we objected, but I wanted to let you know ASAP.

I will be leaving the office soon but checking emails. Mark is also checking emails.

Kevin

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**From:** Dyner, Mark

**Sent:** Thursday, November 16, 2017 5:03 PM

**To:** Baptist, Erik <[baptist.erik@epa.gov](mailto:baptist.erik@epa.gov)>

**Cc:** Mclean, Kevin <[Mclean.Kevin@epa.gov](mailto:Mclean.Kevin@epa.gov)>; Perlis, Robert <[Perlis.Robert@epa.gov](mailto:Perlis.Robert@epa.gov)>

**Subject:** Fwd: NCAP v. NMFS, 07-1791 (W.D. Wash.): Praeipce attaching FWS letter

See attached. DOJ plans to file FWS letter to supplement NMFS motion; they want to know if EPA objects. contrary to the message below, I had understood only that FWS was thinking about filing a motion. Thoughts?

Sent from my iPhone

Begin forwarded message:

**From:** "Grosko, Brett (ENRD)" <[Brett.Grosko@usdoj.gov](mailto:Brett.Grosko@usdoj.gov)>  
**Date:** November 16, 2017 at 1:39:37 PM PST  
**To:** "Dyner, Mark" <[dyner.mark@epa.gov](mailto:dyner.mark@epa.gov)>  
**Subject:** NCAP v. NMFS, 07-1791 (W.D. Wash.): Praeipce attaching FWS letter

Mark,

To confirm, as we discussed yesterday, we intend to file the attached Praeipce in support of NMFS's motion to amend, along with the 11/14/17 FWS-EPA letter. I'm hoping to file this evening so that Plaintiffs will have Friday and Monday to review the FWS letter and have less to complain about. I'm assuming EPA has no objection to filing the FWS letter.

Thanks,

Brett

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